

**MILES TOLBERT, 4-13-09**

1

1 IN THE UNITED STATES DISTRICT COURT FOR THE  
2 NORTHERN DISTRICT OF OKLAHOMA  
3  
4

5 W. A. DREW EDMONDSON, in his )  
6 capacity as ATTORNEY GENERAL )  
7 OF THE STATE OF OKLAHOMA and )  
8 OKLAHOMA SECRETARY OF THE )  
9 ENVIRONMENT C. MILES TOLBERT, )  
10 in his capacity as the )  
11 TRUSTEE FOR NATURAL RESOURCES )  
12 FOR THE STATE OF OKLAHOMA, )  
13 )

14 Plaintiff, )  
15 )

16 vs. )

17 4:05-CV-00329-TCK-SAJ  
18 )

19 TYSON FOODS, INC., et al, )  
20 )

21 Defendants. )  
22 )

23 - - - - -  
24 THE VIDEOTAPED DEPOSITION OF  
25 MILES TOLBERT, produced as a witness on behalf of  
the Defendants in the above styled and numbered  
cause, taken on the 13th day of April, 2009, in the  
City of Oklahoma City, County of Oklahoma, State of  
Oklahoma, before me, Lisa A. Steinmeyer, a Certified  
Shorthand Reporter, duly certified under and by  
virtue of the laws of the State of Oklahoma.

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**EXHIBIT**

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1 we'll deal with it at that time.

2 Q I'll tell you why I'm pursuing this is at the  
3 preliminary injunction hearing, Mr. Tolbert, you'll  
4 recall that Mr. Edmondson took you through a line of  
5 questions and asked you about your work on this 09:31AM  
6 opinion and whether you had formed an opinion as to  
7 the relationship, and then you ultimately offered  
8 what I believe to be a legal conclusion as to the  
9 nature of the relationship, and in case you intend  
10 to pursue that line of questioning and answering at 09:31AM  
11 the trial of this matter, I want to fully understand  
12 the basis, if any, for that opinion. So I'm going  
13 to continue to explore it. Obviously if Mr. Bullock  
14 gives you an instruction, we'll deal with it at that  
15 time. 09:31AM

16 By the way, Mr. Tolbert, do you consider Mr.  
17 Bullock to be your lawyer?

18 A In these matters, yes.

19 Q You're not currently a State employee, are  
20 you? 09:31AM

21 A I'm not.

22 Q Have you retained him specially for this  
23 deposition?

24 A No. I'm a State official. I'm commissioner  
25 of the Arkansas-Oklahoma Arkansas River Compact 09:31AM

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1 Commission --

2 Q Is that a paid position?

3 A -- no.

4 Q Who appointed you to that position?

5 A Governor Henry. 09:32AM

6 Q And when were you appointed?

7 A In 2003.

8 Q When does your term expire?

9 A I could not tell you. I believe I've got  
10 another two years. 09:32AM

11 Q When did you last attend a meeting of the  
12 Arkansas-Oklahoma Arkansas River Compact Commission?

13 A They met this fall and I was there then. I  
14 think that was early December.

15 Q Was this lawsuit discussed at that meeting? 09:32AM

16 A The lawsuit has been discussed at --  
17 frequently at those meetings. I don't believe that  
18 there was a discussion at this meeting.

19 Q All right. Tell me about the previous  
20 discussions at those meetings involving this 09:32AM  
21 lawsuit. What types of discussions would be had?

22 A The Commission is composed essentially of  
23 representatives from Arkansas and representatives  
24 from Oklahoma, and the -- particularly in -- the  
25 primary mission of the Commission is to oversee the 09:33AM

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1       alleged polluters?

2       A       Yes.

3       Q       Can you give me, not the clients, but the  
4       industry which you represented?

5       A       Okay. Let me see. I had clients in the -- in                   09:40AM  
6       manufacturing we'll say. I had clients in real  
7       estate. I don't know what else you need.

8       Q       Okay. Why did you leave Crowe & Dunlevy in --  
9       did you say January of 2005?

10      A       The Governor Henry appointed me as his                   09:41AM  
11      Secretary of the Environment.

12      Q       Who was your predecessor in that position?

13      A       Brian Griffin.

14      Q       Did you talk with Mr. Edmondson about the  
15      position of Secretary of the Environment before you                   09:41AM  
16      took that job?

17      A       I don't think so.

18      Q       Do you know if Mr. Edmondson gave you a  
19      recommendation or put in a good word with the  
20      governor for that position?                   09:41AM

21      A       I don't know.

22      Q       Did you say you took that position in January  
23      of 2005?

24      A       '3 I think I said.

25      Q       '3, okay. That explains it. And you held                   09:42AM

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1 that position of Secretary of the Environment for  
2 the State of Oklahoma until when?

3 A Until September of 2008.

4 Q And why did you leave that position?

5 A A new opportunity came up with Crowe & 09:42AM  
6 Dunlevy, and I had been in the job for -- the  
7 Secretary of Environment's job, I thought, for long  
8 enough.

9 Q Do you know if Crowe & Dunlevy currently  
10 represents any poultry companies? 09:43AM

11 A I don't believe they do.

12 Q Is it something you checked before you took  
13 that position?

14 A Well, we talked about it was, of course,  
15 important to make certain there weren't any 09:43AM  
16 conflicts in the new job and there were not any  
17 poultry companies that they represented. They  
18 represented the Oklahoma Farm Bureau but not any  
19 poultry companies.

20 Q All right. Mr. Tolbert, you are a lawyer, not 09:43AM  
21 a scientist; is that correct?

22 A That's correct.

23 Q Are you a member of any environmental groups  
24 or organizations?

25 A Yes. 09:43AM

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1 for farmers who land apply poultry litter. Is that  
2 what it boils down to?

3 MR. BULLOCK: Object to form.

4 A There's one system for municipal discharges  
5 and there's another system for poultry. 03:59PM

6 Q Okay, and the system for municipal dischargers  
7 allows direct discharge of pollutants into the  
8 waters of the State of Oklahoma; correct?

9 A Yes.

10 Q And the other allows a poultry farmer to apply 03:59PM  
11 poultry litter, which contains phosphorus and other  
12 constituents, to lands within the Illinois River  
13 watershed?

14 A I don't know that either -- I don't -- again,  
15 I think there's no permit that's issued in the 04:00PM  
16 poultry context. So I don't know that you could say  
17 it is somehow expressly allowed.

18 Q Okay. So are you saying the State of Oklahoma  
19 does not allow farmers to apply poultry litter to  
20 the lands within the Illinois River watershed? 04:00PM

21 A No.

22 MR. BULLOCK: Object to form.

23 Q Are you familiar with anyone who has worked  
24 for or currently works for Peterson Farms?

25 A For Peterson Farms? I don't think so. 04:00PM

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